

Dkt. 54203-H-PCT/JPW/SHS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Peter D. Kwong et al.
Serial No. : 09/856,200
(U.S. National Stage of PCT/US98/23905,
filed 10 November 1998)
Filed : Not Yet Accorded Filing Date
For : CRYSTAL COMPRISING HUMAN IMMUNODEFICIENCY
VIRUS ENVELOPE GLYCOPROTEIN gp120, COMPOUNDS
INHIBITING CD4-gp120 INTERACTION, COMPOUNDS
INHIBITING CHEMOKINE RECEPTOR-gp120
INTERACTION, MIMICS OF CD4 AND gp120 VARIANTS

1185 Avenue of the Americas
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Assistant Commissioner for Patents
Washington, D.C. 20231

**SECOND DECLARATION OF JOHN P. WHITE IN
SUPPORT OF PETITION TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b)**

I, John P. White, Esq. hereby declare that:

1. I am a partner in Cooper & Dunham LLP, outside patent counsel to The Trustees of Columbia University in the City of New York, the coassignee of the above-identified application.
2. At all relevant times, Ofra Weinberger, Ph.D., Director of the Health Sciences Division of Columbia Innovation Enterprise ("CIE"), Columbia University, was responsible for instructing Cooper & Dunham LLP regarding PCT application No. PCT/US98/23905, filed 10 November 1998 ("the PCT Application").

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3. This Second Declaration is submitted in support of a Petition to Revive an Unintentionally Abandoned Application under 37 C.F.R. §1.137(b). In the PCT Application, the deadline for entering the United States national stage was May 10, 2000, thirty (30) months from the United States priority date.
4. I sent letters to Ofra Weinberger on March 10, 2000 and April 10, 2000 (copies of which are attached as Exhibits 1-2), respectively, reminding her that the deadlines for entering the national or regional stage were May 10, 2000 or June 9, 2000, depending on the country or region. The letters do not separately list each country or region with its applicable deadline.
5. On May 5, 2000, Joshua Landa, a legal assistant in my office at the time, telephoned Ofra Weinberger to seek instructions concerning the national or regional stage entry of the PCT application in the absence of any written response to my March 10 and April 10, 2000 letters. Mr. Landa advised me of his understanding of instructions he received from Ofra Weinberger that the PCT Application would not enter the national or regional stage in any country. I confirmed this understanding of these instructions in a letter dated May 9, 2000 addressed to Ofra Weinberger, a copy of which is attached hereto as Exhibit 3.
6. Based on my May 9, 2000 letter, no papers were filed whereby the PCT Application would have entered the

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national stage in the United States by the May 10, 2000 deadline.

7. On May 23, 2000, I received written confirmation of instructions from Ofra Weinberger to proceed with reviving the unintentionally abandoned national stage of the PCT Application in the United States.
8. Immediately on May 23, 2000, I directed Elizabeth Wieckowski to take all necessary steps to revive the U.S. national stage of the PCT Application, and was under the impression that she had done so.
9. On or about March 20, 2001, Ofra Weinberger requested copies of the PCT Application and the corresponding national stage application. Since Elizabeth Wieckowski had ceased to be employed by Cooper & Dunham LLP some weeks earlier, I asked Spencer Schneider, Esq., an associate at Cooper & Dunham LLP and who is registered to practice before the United States Patent and Trademark Office, to provide the requested copies. After inspecting the file of the application, Mr. Schneider advised me that although drafts of papers for seeking revival of the application had been prepared, the petition for revival had not been filed.
10. Until Mr. Schneider advised me that the petition to revive this application had not been filed, I believed that the petition had been filed and that the application was being revived. At no time after receiving

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instructions to revive the application on May 23, 2000
was it my intention that the application not be revived.

11. On April 23, 2001, immediately upon hearing from Mr. Schneider that the petition to revive had not been filed, I assigned him to prepare papers to revive the subject application.

12. The entire delay in filing the U.S. national stage transmittal papers, including the period from May 9, 2000 until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b), was unintentional.

Date: 4/7/01



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